IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No. 1308 of 2000
Date of Decision: 14.2.2007

Goli ...Petitioner

Versus

Gram Panchayat ....Respondent

Coram: Hon'ble Mr. Justice Hemant Gupta.

Present: Shri R.S. Sihota, Advocate, for the petitioner.

Shri R.K.Jain, Advocate, for the respondent.

HEMANT GUPTA, J.

The challenge in the present revision petition is to the order passed by the learned first Appellate Court on 25.2.2000, whereby an application filed by the respondent-defendant for setting aside an exparte judgment and decree dated 22.5.1992 was accepted and the said judgment and decree was set aside and the suit was restored to its original number.

The plaintiff-petitioner filed a suit for declaration in the year 1991 to the effect that he has become owner of the suit land measuring 104 kanals for the reason that he is an occupancy tenant and such occupancy rights have ripened into ownership by operation of law. In the said suit, initially, Zile Singh, the then Sarpanch of the defendant-Gram Panchayat is purported to have refused to receive the summons on 31.3.1992 for 16.4.1992. Hence, exparte proceedings were initiated against the defendant, which led to the exparte judgment and decree dated 22.5.1992.

An application for setting aside of the said exparte

judgment and decree was filed on 1.3.1993 on the ground that the defendant was never served with the process of the suit and the report of the service on summons for 16.4.1992 was false and manipulated by the plaintiff in collusion with the process server and the person who had witnessed the service thereof. It was further pleaded that the defendant-Gram Panchayat came to know about the exparte proceedings on 1/16.2.1993, when the plaintiff was trying to strike deals with regard to the suit property with some persons in the village.

Though the learned trial Court dismissed the application after voluminous evidence on the question `whether the defendant was properly served or not' , were led, and on the basis of service of summons on Sarpanch Zile Singh on 31.3.1992 for 16.4.1992 in respect of the land measuring 104 kanals, but the learned first Appellate Court set aside exparte judgment and decree, after finding that Zile Singh appearing as AW1 has denied his signatures on the summons. Raj Kumar, the process server, deposed that he neither knew Zile Singh Sarpanch nor the witness Jagdish who had witnessed the factum of service of summons. It is only Jagdish who while appearing as RW3 has supported that Zile Singh has put his signatures on the summons and he has put his signatures as a witness.

The learned first Appellate Court has found that the petitioner has in fact, created false evidence in order to strengthen his claim of ownership by obtaining decree in his favour on 1.10.1991 against Girdhari. The said suit is for correction of entries in column No. 5 in the Jamabandi for the year 1958-70. The Panchayat was never impleaded as a party even though Girdhari against whom, the decree is obtained is recorded tenant of Gram Panchayat for the years 1958-70 and 1978 till date. From the

conduct of the petitioner, a finding was returned that possibility cannot be ruled out that the petitioner has obtained a report of fake service for 16.4.1992, on the basis of which judgment and decree dated 22.5.1992 has been passed.

The reasoning given by the learned first Appellate Court cannot be said to be suffering from any patent illegality or irregularity, which may warrant interference by this Court in exercise of its revisional jurisdiction.

Hence, the present revision petition is dismissed.

14-02-2007 (HEMANT GUPTA)
ds JUDGE